

2007 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-SB40)

Received: 06/27/2007

Received By: dkennedy

Wanted: As time permits

Identical to LRB:

For: Legislative Fiscal Bureau 266-3847

By/Representing: Peck

This file may be shown to any legislator: NO

Drafter: dkennedy

May Contact:

Addl. Drafters:

Subject: Health - miscellaneous

Extra Copies:

Submit via email: YES

Requester's email:

Carbon copy (CC:) to: robin.ryan@legis.wisconsin.gov

Pre Topic:

LFB:.....Peck -

Topic:

Increase patient health care record copying fee

Instructions:

Increase fee from \$.31 to up to \$1.00 per page; index for inflation

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	dkennedy 06/27/2007	kfollett 06/28/2007					
/1			jfrantze 06/28/2007		lparisi 06/28/2007		

FE Sent For:

<END>

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/?	dkennedy	11/jf 6/28	to 6/28	Sh 6/28			

FE Sent For:

<END>

Chapter HFS 117

FEES FOR COPIES OF HEALTH CARE PROVIDER RECORDS

HFS 117.01 Authority and purpose.
HFS 117.02 Applicability.
HFS 117.03 Definitions.

HFS 117.04 Request for duplicate records.
HFS 117.05 Fees for duplicate records.

Note: Chapter HSS 117 was created as emergency rule effective January 1, 1993. Chapter HSS 117 was renumbered ch. HFS 117 under s. 13.93 (2m) (b) 1., Stats., and corrections were made under s. 13.93 (2m) (b) 6. and 7., Stats. Register, May, 1998, No. 509.

HFS 117.01 Authority and purpose. This chapter is promulgated under the authority of ss. 146.83 (3m) and 908.03 (6m) (d), Stats., to establish uniform fees that are the maximum fees that may be charged for a copy of health care records under s. 146.83 (1) (b) or (c) or 908.03 (6m), Stats.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; CR 03-111: am. Register March 2007 No. 615, eff. 4-1-07.

HFS 117.02 Applicability. Unless superseded by fees established by other applicable law, this chapter applies to all persons and entities who request duplicate health care records under s. 146.83 or 908.03 (6m), Stats., and to all health care providers who supply those records, either directly or indirectly through the provider's agent.

Note: An example of other applicable law is the fee limits imposed under s. 102.13 (2) (b), Stats., for worker's compensation cases.

Note: The fee limits in this chapter apply to requests for health care records whether or not a court action or administrative action has been commenced.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; CR 03-111: am. Register March 2007 No. 615, eff. 4-1-07.

HFS 117.03 Definitions. In this chapter:

(1) "Department" means the Wisconsin department of health and family services.

(2) "Health care provider" includes any persons or entities specified in s. 146.81 (1), 655.001 (8) or 908.03 (6m) (a), Stats.

(3) "Health care records" have the meaning specified in s. 146.81 (4), Stats., including any billing statements.

(4) "Personal representative" means a person who both has authority under state law to act on behalf of the patient and qualifies as a "personal representative" under 45 CFR 164.502 (g).

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; CR 03-111: am. Register March 2007 No. 615, eff. 4-1-07; correction in (3) made under s. 13.93 (b) 12., Stats., Register March 2007, No. 615.

HFS 117.04 Request for duplicate records. A person requesting duplicate health care records shall provide sufficient identifying information about the patient and the pertinent records to permit identification and location of the specific records. The request shall include all of the following:

(1) The correct name of the patient whose records are the subject of the request.

(2) The patient's identifying number, if known.

(3) The patient's date of birth, if known.

(4) A description of the records requested.

(5) The written informed consent of the patient or person authorized by the patient to give consent to release of the records, if required by law.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; CR 03-111: am. Register March 2007 No. 615, eff. 4-1-07.

HFS 117.05 Fees for duplicate records.

(1) **DEFINITION.** In this section, "x-ray copy" means a page containing one or more radiographic images.

(2) **REQUESTS FOR RECORDS FROM THE PATIENT OR REQUESTS FROM THE PERSONAL REPRESENTATIVE OF THE PATIENT.** If a patient or if the personal representative of the patient requests copies of the patient's health care records, the health care provider may charge no more than the following fees:

(a) For other than X-rays, all of the following:

1. Thirty-one cents per record page.

2. The actual costs of postage or other means of delivering the requested duplicate records to the person requesting the records.

(b) For X-rays, all of the following:

1. \$5.25 per X-ray copy.

2. The actual costs of postage or other means of delivering the requested duplicate records to the person requesting the records.

Note: Sales taxes, if applicable, also may be added to the fees charged under this subsection.

Note: When records are needed by or on behalf of indigents, the Department encourages health care providers to provide those records at as low a cost as possible.

(3) **REQUESTS FOR RECORDS FROM INDIVIDUALS OTHER THAN THE PATIENT OR THE PATIENT'S PERSONAL REPRESENTATIVE.** If a person is requesting copies of another person's health care records and the person making the request is not the personal representative of the patient, a health care provider may charge the requester no more than the following fees:

(a) For other than X-rays, all of the following:

1. a. For a request generating a total of up to 5 pages, \$12.50 per request.

b. For a request generating a total of 5 or more pages, \$15.00 per request.

2. Thirty-one cents per record page.

Note: The "per page" fee limit under subdivision 2. above applies to the total number of pages, and is in addition to the "per request" fee limit.

3. The actual costs of postage or other means of delivering the requested duplicate records to the person requesting the records.

(b) For X-rays, all of the following:

1. \$5.25 per X-ray copy.

2. The actual costs of postage or other means of delivering the requested duplicate records to the person requesting the records.

(c) 1. For certifying up to 5 pages of records, an additional \$5.00 per request.

2. For certifying 5 or more pages of records, an additional \$7.50 per request.

Note: Sales taxes, if applicable, may also be added to the fees charged.

History: Cr. Register, September, 1993, No. 453, eff. 10-1-93; CR 03-111: r. and recr. Register March 2007 No. 615, eff. 4-1-07.



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0733/

DAK: *gjf*

D-NOTE

LFB:.....Peck - Increase patient health care record copying fee

FOR 2007-09 BUDGET -- NOT READY FOR INTRODUCTION

ASSEMBLY AMENDMENT ,

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 2007 SENATE BILL 40

1 At the locations indicated, amend the substitute amendment as follows:

INSERT 1-2
2 **1.** Page 1259, line 17: after that line insert:

3 **"SECTION 2870pd.** 146.83 (3g) of the statutes is created to read:

4 146.83 (3g) (a) Except as provided under par. (b), the maximum amount that
5 a health care provider may charge under sub. (1) (b) for duplicate patient health care
6 records is \$1.00 per page, plus applicable tax and the actual costs of postage or other
7 means of delivering the requested records to the requester.

8 (b) For years beginning after 2007, fees specified under par. (a) increase
9 annually by a percentage equal to the percentage change between the U.S. Consumer
10 Price Index for all urban consumers, U.S. city average, for the month of August of the

1 previous year and the U.S. Consumer Price Index for all urban consumers, U.S. city
2 average, for the month of August of the year before the previous year, as determined
3 by the federal department of labor. The department of health and family services
4 shall specify this increase annually on the department's website.

5 **SECTION 2870pe.** 146.83 (3m) (a) (intro.) of the statutes is amended to read:

6 146.83 (3m) (a) (intro.) The department shall, by rule, prescribe fees that are
7 based on an approximation of actual costs. The fees, plus applicable tax, are the
8 maximum amount that a health care provider may charge under sub. (1) (b) for
9 duplicate patient health care records and under sub. (1) (c) for duplicate X-ray
10 reports or the referral of X-rays to another health care provider of the patient's
11 choice. The rule shall also permit the health care provider to charge for actual
12 postage or other actual delivery costs. In determining the approximation of actual
13 costs for the purposes of this subsection, the department may consider all of the
14 following factors:

INSERT 2-14
History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109; 2005 a. 387.

15 **2.** Page 1535, line 2: after that line insert:

16 "SECTION 3779e. 908.03 (6m) (d) of the statutes is renumbered 908.03 (6m) (d)

17 3. and amended to read:

18 908.03 (6m) (d) 3. After December 31, 2002 the effective date of this paragraph
19 [revisor inserts date], the department of health and family services shall, by rule,
20 prescribe uniform fees for X-ray copies that are based on an approximation of actual
21 costs. The fees, plus applicable tax, and are the maximum amount, plus applicable
22 tax and the actual costs of postage or other means of delivering the requested records
23 to the requester, that a health care provider may charge for certified duplicate

1 ~~patient health care records. The rule shall also allow the health care provider to~~
2 ~~charge for actual postage or other actual delivery costs~~ duplicate X-ray copies.

3 4. For duplicate patient health care records and duplicate X-ray reports or the
4 referral of X-rays to another health care provider that are requested before
5 commencement of an action, s. 146.83 (1) (b) and (c), (3g), and (3m) applies.

6 Cross Reference: Cross Reference: Cross Reference: See also ch. HFS 117, Wis. adm. code. Cross Reference:

History: Sup. Ct. Order, 59 Wis. 2d R250; Sup. Ct. Order, 67 Wis. 2d vii (1975); 1983 a. 447; Sup. Ct. Order, 158 Wis. 2d xxv (1990); 1991 a. 32, 269; 1993 a. 105; 1995 a. 27 s. 9126 (19); 1997 a. 67, 156; 1999 a. 32, 85, 162; 2001 a. 74, 109; Sup. Ct. Order No. 04-09, 2005 WI 148, 283 Wis. 2d xv.

7 **SECTION 3779f.** 908.03 (6m) (d) 1. and 2. of the statutes are created to read:

8 908.03 (6m) (d) 1. Except as provided in subd. 2., the maximum amount that
9 a health care provider may charge for certified duplicate patient health care records
10 is \$1.00 per page, plus applicable tax and the actual costs of postage or other means
11 of delivering the requested records to the requester.

12 2. For years beginning after 2007, fees specified under subd. 1. increase
13 annually by a percentage equal to the percentage change between the U. S.
14 Consumer price Index for all urban consumers, U.S. city average, for the month of
15 August of the previous year and the U.S. Consumer Price Index for all urban
16 consumers, U.S. city average, for the month of August of the year before the previous
17 year, as determined by the federal department of labor. The department of health
18 and family services shall specify this increase annually on the department's
19 website."

20 **3.** Page 1658, line 16: after that line insert:

21 "(?) ^(10f) PATIENT HEALTH CARE RECORD FEES. The treatment of sections ~~???~~ of the
22 statutes ^{apply} first applies to requests for patient health care records and certified patient
23 health care records made on the effective date of this subsection."

24 (END)

the renumbering and amendment of section 908.03 (6m) (d) of the statutes, and the creation of section 908.03 (6m) (d) 1. and 2. of the statutes

(D-NOTE)

2870pc
[INSERT 1-2]
Section #. 146.83 (1) (b) of the statutes is amended to read:

146.83 (1) (b) Receive a copy of the patient's health care records upon payment of fees, as established by rule under sub. (3m). (3g)

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109; 2005 a. 387.

INSERT 2-14

p. 187
3

2870 pf
✓ , 3. and 4. are
Section #. 146.83 (3m) (a) 2. of the statutes is amended to read:

146.83 (3m) (a) 2. The varying cost of retrieval of records, based on the different media on which the records are maintained. reports X-ray reports

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109; 2005 a. 387.

INS 2-14 (cont.)

p. 28
30

Section #. 146.83 (3m) (a) 3. of the statutes is amended to read:

X-ray reports

146.83 (3m) (a) 3. The cost of separating requested patient health care records from those that are not requested.

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109; 2005 a. 387.

INS 2-14 (cont.)

P. 308
3

Section #. 146.83 (3m) (a) 4. of the statutes is amended to read:

X-ray reports

146.83 (3m) (a) 4. The cost of duplicating requested patient health care records.

History: 1979 c. 221; 1989 a. 56; 1993 a. 27, 445; 1997 a. 157; 2001 a. 109; 2005 a. 387.

End of INS-214

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRBb0733/7dn

DAK: *gt*

Date

To Eric Peck:

I am uncertain whether my changes to s. 908.03 (6m), stats., are what are intended. The DHFS rule (Chapter HFS 117) specifies, for patient health care records, \$.31 per page, but allows an additional \$5.00 per request for certifying up to 5 pages of records and an additional \$7.50 per request for certifying 5 or more pages of records. The requester may wish to retain these extra charges, as well as increasing the per page amount, or it is possible that the requester contemplates no change to s. 908.03 (6m), stats., at all.

Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0733/1dn
DAK:kjf:jf

June 28, 2007

To Eric Peck:

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Debora A. Kennedy
Managing Attorney
Phone: (608) 266-0137
E-mail: debora.kennedy@legis.wisconsin.gov

Kennedy, Debora

To: Peck, Eric
Subject: RE: Copying Charges

Eric, on looking at this draft (b0733), I think it's unnecessary to redraft, because ss. 146.83 (3g) and 908.03 (6m) (d) 1.each provide the \$1 amount as the "maximum amount" that may be charged.

Debora

From: Peck, Eric
Sent: Thursday, June 28, 2007 9:07 AM
To: Kennedy, Debora
Cc: Morgan, Charlie
Subject: Copying Charges

Hi Debora: Just one small note on that medical record copying charge item. Looking at my notes, it's clear the working group's intent was to allow providers to charge "up to" \$1.00 per record page, rather than mandating a \$1.00 per page charge. Sorry for not noticing that earlier. Thanks.

Eric Peck, Fiscal Analyst
Wisconsin Legislative Bureau
1 East Main Street, Suite 301
Madison, WI 53703
Telephone: (608) 266-3847
FAX: (608) 267-6873
Email: Eric.Peck@legis.state.wi.us

60733

Kennedy, Debora

From: Peck, Eric
Sent: Monday, July 02, 2007 9:19 AM
To: Kennedy, Debora
Cc: Morgan, Charlie
Subject: Copying Fees for medical records

Hi Debora: Thanks for that draft on medical records copying fees. It looks good to me, and I follow the distinction you maintain throughout between medical records and x-rays. Thanks for your help.

Eric Peck, Fiscal Analyst
Wisconsin Legislative Bureau
1 East Main Street, Suite 301
Madison, WI 53703
Telephone: (608) 266-3847
FAX: (608) 267-6873
Email: Eric.Peck@legis.state.wi.us



State of Wisconsin
2007 - 2008 LEGISLATURE

LRBb0733/1
DAK:kjf:jf

LFB:.....Peck – Increase patient health care record copying fee

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5 of fees, as established by rule under sub. ~~(3m)~~ (3g).

6 SECTION 2870pd. 146.83 (3g) of the statutes is created to read:

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8 a health care provider may charge under sub. (1) (b) for duplicate patient health care
9 records is \$1 per page, plus applicable tax and the actual costs of postage or other
10 means of delivering the requested records to the requester.

(b) For years beginning after 2007, fees specified under par. (a) increase annually by a percentage equal to the percentage change between the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the previous year and the U.S. consumer price index for all urban consumers, U.S. city average, for the month of August of the year before the previous year, as determined by the federal department of labor. The department of health and family services shall specify this increase annually on the department's Web site.

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SECTION 2870pf. 146.83 (3m) (a) 2., 3. and 4. of the statutes are amended to read:

146.83 (3m) (a) 2. The varying cost of retrieval of ~~records~~ X-ray reports, based on the different media on which the ~~records~~ reports are maintained.

3. The cost of separating requested ~~patient health care records~~ X-ray reports from those that are not requested.

4. The cost of duplicating requested ~~patient health care records~~ X-ray reports."

1 **2.** Page 1535, line 2: after that line insert:

2 “**SECTION 3779e.** 908.03 (6m) (d) of the statutes is renumbered 908.03 (6m) (d)

3 3. and amended to read:

4 908.03 **(6m)** (d) 3. After ~~December 31, 2002~~ the effective date of this paragraph
5 ... [revisor inserts date], the department of health and family services shall, by rule,
6 prescribe uniform fees for X-ray copies that are based on an approximation of actual
7 costs. The fees, plus applicable tax, and are the maximum amount, plus applicable
8 tax and the actual costs of postage or other means of delivering the requested records
9 to the requester, that a health care provider may charge for certified ~~duplicate~~
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12 4. For duplicate patient health care records and duplicate X-ray reports or the
13 referral of X-rays to another health care provider that are requested before
14 commencement of an action, s. 146.83 (1) (b) and (c), (3g), and (3m) applies.

15 **SECTION 3779f.** 908.03 (6m) (d) 1. and 2. of the statutes are created to read:

16 908.03 **(6m)** (d) 1. Except as provided in subd. 2., the maximum amount that
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19 delivering the requested records to the requester.

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21 annually by a percentage equal to the percentage change between the U.S. consumer
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23 previous year and the U.S. consumer price index for all urban consumers, U.S. city
24 average, for the month of August of the year before the previous year, as determined

1 by the federal department of labor. The department of health and family services
2 shall specify this increase annually on the department's Web site.”.

3 **3.** Page 1658, line 16: after that line insert:

4 “(10f) PATIENT HEALTH CARE RECORD FEES. The treatment of sections 146.83 (3g)
5 and (3m) (a) (intro.) of the statutes, the renumbering and amendment of section
6 908.03 (6m) (d) of the statutes, and the creation of section 908.03 (6m) (d) 1. and 2.
7 of the statutes first apply to requests for patient health care records and certified
8 patient health care records made on the effective date of this subsection.”.

9 (END)